

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JEFFREY KRUG, :
Plaintiff, : CIVIL ACTION - LAW
- against - : JURY TRIAL DEMANDED
BLOOMSBURG UNIVERSITY, :
PENNSYLVANIA STATE SYSTEM :
OF HIGHER EDUCATION, :
BASHAR HANNA and :
JAMES KRAUSE. :
Defendants. : No. 4:18-cv-1669-JPW

PLAINTIFF'S MOTION TO
DECLARE BLOOMSBURG UNIVERSITY'S POLICY
ENTITLED "PRP 4789 – HARASSMENT AND
DISCRIMINATION POLICY" TO BE UNCONSTITUTIONAL,
AND FOR A DIRECTED VERDICT

Plaintiff Jeffrey Krug, by his attorneys Barry H. Dyller & Solomon, and Patrick T. O'Connell, respectfully moves for the Court to declare Bloomsburg University's policy entitled "PRP 4789 – Harassment and Discrimination Policy" to be unconstitutional, and for a directed verdict in Dr. Krug's favor on his § 1983/First Amendment claim. (A copy of "PRP 4789," was admitted into evidence as Plaintiff's Exhibit 14).

1. In the Court's summary judgment opinion, the Court already held that Dr. Krug's speech was a matter of public concern.

2. Defendants' defense is based on facts, if all inferences are drawn in defendants' favor, that Dr. Krug engaged in speech in violation of PRP-4789.

3. Yet, because the speech was protected by the First Amendment, the termination was for engaging in constitutionally protected speech.

4. Further, PRP-4789 is unconstitutional in that, in defendants' interpretation, it prohibits speech on a matter of public concern – sexual harassment by the president of a state university. Assuming all inferences in defendants' favor, Dr. Krug was terminated for exercising constitutional rights protected by the First Amendment.

5. The brief filed simultaneously herewith shows that PRP-4789 violates both the First and Fourteenth Amendments. Therefore, defendants' reliance on it is improper and reveals that the conduct defendants' purport to have terminated Dr. Krug for is an improper basis for any adverse employment action.

WHEREFORE, Dr. Krug respectfully moves for a directed verdict in his favor.

DYLLER & SOLOMON, LLC

s/ Barry H. Dyller
88 North Franklin Street
Wilkes-Barre, PA 18701
(570) 829-4860
Attorney for Plaintiff